

REMARKS

Claims 1-4, 7, 11-13, 15-20, 22-24, 26, 28-34, 36-39 and 41-49 are all the claims pending in the application. Claim 27 has been canceled without prejudice or disclaimer and claims 41-49 have been newly added herewith.

Drawings and Specification Objection

The Examiner objects to the drawings and the specification as containing new matter. Specifically, the Examiner asserts that Fig. 8 has been amended to include new matter in the form of a zigzag configuration. Applicants respectfully traverse this objection.

In the Amendment filed April 28, 2006, Fig. 8 was amended to illustrate layers 110c and 110b having different orientations. The specification clearly supports such an amendment, for example at paragraphs [44] and [48]. The zigzag was included to indicate that the top layer 110c was drawn partially cut away to reveal the middle layer 110b. Paragraph [44] was also amended to describe layer 110c as partially cut away so as to be consistent with the amendment to Fig. 8. The zigzag objected to by the Examiner is not a new feature, but merely is used to show that the layer 110c has been cut-away for illustrative purposes so that the layer 110b can be better seen. Therefore, the zigzag is not new matter and Applicants respectfully request that the Examiner withdraw the objection to the drawings and specification as including new matter.

Claim Rejections 35 U.S.C. § 103

Claims 1-4, 7, 11-13, 15-20, 22-24, 26-34 and 36-39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Pucci et al. (5, 974,600) in view of Lawrence (U.S. Patent No. 5,735,529). Applicants respectfully traverse.

Claim 1 recites a gasket including a thicker portion at an inner edge and a thinner portion at an outer edge. The Examiner asserts that Pucci teaches a gasket 74, but acknowledges that it does not include a thicker portion and a thinner portion as claimed. The Examiner then asserts that Lawrence teaches a gasket with thinner and thicker portions as claimed and that one of ordinary skill in the art would have modified Pucci to include the gasket of Lawrence. However, even if Pucci were modified to include the Lawrence gasket, the combination would still be deficient with respect to the claimed invention.

The Examiner asserts that Lawrence teaches a gasket including a thicker portion 38 at an inner edge and a thinner portion 36 at an outer edge. However, the Examiner's alleged thicker portion 38 is not at an inner edge. Instead, it is at the middle of the gasket. The thinner portion 36 is disposed at both the inner and the outer edges of the gasket. Therefore, the Lawrence gasket does not have a thicker portion at a n inner edge and a thinner portion at an inner edge as claimed. Accordingly, even if Pucci were modified to include the Lawrence gasket, the combination would still be deficient with respect to claim 1. Claims 2-4, 7, 11-13, 15-20, 22-24, 26-34 and 36-39 depend from claim 1 and are therefore allowable at least by virtue of their dependency.

Claim 31 also recites that a cross section of the gasket includes a thicker portion at an inner edge and a thinner portion at an outer edge. Accordingly, claim 31 is allowable at least for reasons similar to claim 1 and claims 32-34 and 36-39 are allowable at least by virtue of their dependency.

Furthermore, at least some of the dependent claims are also allowable for additional reasons. Claim 16 recites a plurality of waterproof layer which are laminated together to form a

single united waterproof barrier material. Also, one of the waterproof layers is a different material than another layer or is oriented in a different direction than another waterproof layer. The Examiner asserts that Pucci teaches a cover with multiple layers constituted by bottom cover 38 and a waterproof silicone. However, the Pucci bottom cover 38 is not laminated together with the waterproof silicon to form a single united waterproof barrier material as claimed. The silicon layer is merely applied between the perimeter of the main body 34 and the bottom cover 38. There is simply nothing to suggest that these layers are united to form a united single barrier material as claimed and therefore, these alleged Pucci layers would not provide the improved water barrier of the claimed invention.

Also, with respect to claim 18, the Examiner asserts that the Pucci cover material is a multi-layer PVDC resin. As discussed on page 13 of Applicants' Amendment filed April 28, 2006, there is nothing to indicate that the Pucci cover includes a multi-layer PVDC resin. The current Office Action provides no support for the assertion that Pucci discloses that the cover material is a multi-layer PVDC resin or response to the arguments that Pucci does not even mention a PVDC resin.

With respect to claims 19 and 20, the Examiner acknowledges that Pucci does not disclose that one waterproof layer is at a different orientation than another waterproof layer, but asserts that this feature would have been obvious. However, the Examiner fails to provide any reference or teaching showing such a feature. In fact, the only disclosure of laminating waterproof layers at different orientations for a spa cover is in the present application. Since the Examiner has failed to identify any suggestion or motivation in the prior art for modifying Pucci to include such a feature, the Examiner has failed to establish a *prima facie* case of obviousness.

The Examiner also cites to use Applicants' remarks of the April 28 Amendment as allegedly supporting that different orientations would have been obvious. However, Applicants' remarks simply do not support the Examiner's conclusion. Applicants only noted that when one of skill in the art is specifically instructed by the present application to laminate different waterproof layers in different directions, that this specific teaching would be understood by one of skill in the art. However, absent the specific instruction of the present application, there is no teaching in the art to provide a plurality of waterproof layers laminated in different directions in a spa cover material. That one of skill in the art would understand the teachings of the present application provides absolutely no basis for an assertion that the teaching is obvious.

Claims 26 and 29 recite a single united waterproof barrier material. Accordingly, these claims are allowable at least for reasons similar to claim 16. Also, claims 28 and 30 are allowable at least by virtue of their dependencies from claims 26 and 29, respectively.

New Claims

Applicants have added new claims 41-49 in order to provide a more varied scope of protection. Claims 41-49 depend from one of claims 26 and 29 and are therefore allowable at least by virtue of their dependencies.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,


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